

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:16CR47  
(Judge Keeley)

ROGER GOODEN, II,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
CONCERNING PLEA OF GUILTY IN FELONY CASE (DKT. NO. 25),  
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING**

On July 25, 2016, the defendant, Roger Gooden, II ("Gooden"), appeared before United States Magistrate Judge Michael J. Aloï and moved for permission to enter a plea of GUILTY to Count One of the Information. After Gooden stated that he understood that the magistrate judge is not a United States District Judge, he consented to tendering his plea before the magistrate judge. Previously, this Court had referred the guilty plea to the magistrate judge for the purposes of administering the allocution pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Gooden's statements during the plea hearing and the testimony of Dustin Hotsinpilller, Deputy United States Marshal, the magistrate judge found that Gooden was competent to enter a plea, that the plea was freely and voluntarily given, that he was aware

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of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. On July 25, 2016, the magistrate judge entered a Report and Recommendation Concerning Plea of Guilty in Felony Case ("R&R") (dkt. no. 25) finding a factual basis for the plea and recommending that this Court accept Gooden's plea of guilty to Count One of the Information.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. The parties did not file any objections to the R&R.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R, **ACCEPTS** Gooden's guilty plea, and **ADJUGES** him **GUILTY** of the crime charged in Count One of the Information.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the modified presentence report prepared in this matter.

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Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** as follows:

1. The Probation Officer shall undertake a presentence investigation of Gooden and prepare a modified presentence report for the Court;

2. The Government and Gooden are to provide their versions of the offense to the probation officer by **August 15, 2016**;

3. The modified presentence report is to be disclosed to Gooden, defense counsel, and the United States on or before **September 1, 2016**; however, the Probation Officer is not to disclose the sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the modified presentence report on or before **September 15, 2016**;

5. The Office of Probation shall submit the modified presentence report with addendum to the Court on or before **September 22, 2016**; and

6. Counsel may file any written sentencing statements and motions for departure from the Sentencing Guidelines, including the

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factual basis from the statements or motions, on or before  
**September 22, 2016.**

The magistrate judge remanded Gooden to the custody of the  
United States Marshal Service.

The Court will conduct the sentencing hearing for the  
defendant on **Friday, September 30, 2016 at 10:30 A.M.** at the  
**Clarksburg, West Virginia** point of holding court.

It is so **ORDERED.**

The Clerk is directed to transmit copies of this Order to  
counsel of record, the defendant and all appropriate agencies.

DATED: August 8, 2016

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE